



Senate

General Assembly

File No. 355

February Session, 2002

Substitute Senate Bill No. 491

Senate, April 8, 2002

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MINOR REVISIONS TO UTILITY STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-12 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 Any person or any town, city or borough may make complaint, in
4 writing, to the Department of Public Utility Control, of any defects in
5 any portion of the plant or equipment of any public service company,
6 certified telecommunications service provider, or electric supplier, or
7 of the manner of operating such plant, by reason of which the public
8 safety or the health or safety of employees is endangered; and, if he or
9 it so requests, the name of the complainant shall not be divulged
10 unless in the opinion of the department the complaint is such that
11 publicity is demanded.

12 Sec. 2. Section 16-16 of the general statutes is repealed and the
13 following is substituted in lieu thereof (*Effective October 1, 2002*):

14 Each public service company, certified telecommunications service
15 provider, and electric supplier subject to regulation by the Department
16 of Public Utility Control shall, in the event of any accident attended
17 with personal injury or involving public safety, which was or may
18 have been connected with or due to the operation of its or his property,
19 or caused by contact with the wires of any public service company,
20 certified telecommunications service provider, or electric supplier,
21 notify the department thereof, by telephone or otherwise, as soon as
22 may be reasonably possible after the occurrence of such accident,
23 unless such accident is a minor accident, as defined by regulations of
24 the department. Each such person, company, provider, or electric
25 supplier shall report such minor accidents to the department in
26 writing, in summary form, once each month. If notice of such accident,
27 other than a minor accident, is given otherwise than in writing, it shall
28 be confirmed in writing within five days after the occurrence of such
29 accident. Any person, company, provider, or electric supplier failing to
30 comply with the provisions of this section shall be fined not more than
31 five hundred dollars for each offense.

32 Sec. 3. Section 16-17 of the general statutes is repealed and the
33 following is substituted in lieu thereof (*Effective October 1, 2002*):

34 The Department of Public Utility Control shall examine the causes
35 of, and the circumstances connected with, all fatal accidents occurring
36 in the operation of the plant or equipment of any public service
37 company, certified telecommunications service provider, or electric
38 supplier, and such other accidents, whether resulting in personal
39 injury or not, as, in its judgment, require investigation. The department
40 shall make a record of the causes, facts and circumstances of each
41 accident, within three months thereafter, and as a part of such record
42 shall suggest means, if possible, whereby similar accidents may be
43 avoided in the future. Such record shall be open to public inspection at
44 the office of the department and a copy thereof shall be mailed to the
45 public service company, certified telecommunications service provider,
46 or electric supplier affected thereby. The department may by written
47 order extend the deadline for completion of its record in cases where it

48 is not possible to conclude an investigation within the three-month
49 period because of circumstances beyond its control.

50 Sec. 4. Section 16-44 of the general statutes is repealed and the
51 following is substituted in lieu thereof (*Effective October 1, 2002*):

52 Whenever any company is organized for the purpose of doing
53 business as a public service company, certified telecommunications
54 service provider, or electric supplier, or whenever any company so
55 organized acquires any plant or any part of a plant or equipment, or
56 begins doing business as a public service company, certified
57 telecommunications service provider, or electric supplier, or whenever
58 any foreign public service company commences business in this state,
59 or whenever any public service company, certified
60 telecommunications service provider, or electric supplier doing
61 business in this state merges with any other company or companies or
62 permanently discontinues doing business as a public service company,
63 certified telecommunications service provider, or electric supplier, or
64 changes its corporate name, the secretary of the company shall, within
65 ten days from the date thereof, notify the Department of Public Utility
66 Control of the action of the company or companies, on blanks to be
67 furnished by the department on request. The secretary of any public
68 service company, certified telecommunications service provider, or
69 electric supplier who fails to comply with the provisions of this section
70 shall be fined not more than two hundred dollars or imprisoned not
71 more than sixty days or both.

72 Sec. 5. Section 16-229 of the general statutes is repealed and the
73 following is substituted in lieu thereof (*Effective October 1, 2002*):

74 Any public service company or certified telecommunications service
75 provider incorporated under the provisions of the statutes or by
76 special act for the purpose of transmitting or distributing gas, water or
77 electricity or for telephone purposes, desiring to open or make any
78 excavation in a portion of any public highway for the carrying out of
79 any purpose for which it may be organized other than the placing or
80 replacing of a pole or of a curb box, shall, if required by the authority

81 having jurisdiction over the maintenance of such highway, make
82 application to such authority, which may, in writing, grant a permit for
83 such opening or excavation upon such terms and conditions as to the
84 manner in which such work shall be carried on as may be reasonable.

85 Sec. 6. Section 16-230 of the general statutes is repealed and the
86 following is substituted in lieu thereof (*Effective October 1, 2002*):

87 Before any such public service company or certified
88 telecommunications service provider makes any such application, it
89 shall file with the Secretary of the State a bond, with surety, in form
90 and amount satisfactory to and approved by him, to save harmless any
91 person or corporation which may be injured by the negligent carrying
92 on of such work, which bond may be a continuing bond to cover all of
93 such work conducted by such public service company or certified
94 telecommunications service provider in this state during the term of
95 such bond, but said Secretary may dispense with the filing of any such
96 bond upon the furnishing to him of satisfactory proof of the solvency
97 and the financial ability of such public service company or certified
98 telecommunications service provider to pay any damages resulting
99 from such negligent carrying on of such work, and said Secretary shall
100 issue to such company his certificate that such bond has been filed or
101 proof of solvency furnished. No such bond or further proof of solvency
102 and financial ability shall be required by the Secretary of the State, or
103 by any other authority, of any such public service company or certified
104 telecommunications service provider which has, within the preceding
105 twelve months, filed with the Secretary of the State a certification,
106 attested by the secretary of such company, that the combined paid-in
107 capital and surplus of such company or provider is not less than five
108 hundred thousand dollars.

109 Sec. 7. Section 16-234 of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2002*):

111 No telegraph, telephone, certified telecommunications service
112 provider, community antenna television company, or electric light
113 company or association, nor any provider, company or association

114 engaged in distributing electricity by wires or similar conductors or in
115 using an electric wire or conductor for any purpose, shall exercise any
116 powers which may have been conferred upon it to change the location
117 of, or to erect or place, wires, conductors, fixtures, structures or
118 apparatus of any kind over, on or under any highway or public
119 ground, without the consent of the adjoining proprietors, or, if such
120 provider, company or association is unable to obtain such consent,
121 without the approval of the Department of Public Utility Control,
122 which shall be given only after a hearing upon notice to such
123 proprietors; or to cut or trim any tree on or overhanging any highway
124 or public ground, without the consent of the owner thereof, or, if such
125 provider, company or association is unable to obtain such consent,
126 without the approval of the tree warden or the consent of the
127 department, which consent shall be given only after a hearing upon
128 notice to such owner; but the department may, if it finds that public
129 convenience and necessity require, authorize the changing of the
130 location of, or the erection or placing of, such wires, conductors,
131 fixtures, structures or apparatus over, on or under such highway or
132 public ground; and the tree warden in any town or the department
133 may, if he or it finds that public convenience and necessity require,
134 authorize the cutting and trimming and the keeping trimmed of any
135 brush or tree in such town on or overhanging such highway or public
136 ground, which action shall be taken only after notice and hearing as
137 aforesaid, which hearing shall be held within a reasonable time after
138 the application therefor.

139 Sec. 8. Section 16-235 of the general statutes is repealed and the
140 following is substituted in lieu thereof (*Effective October 1, 2002*):

141 Except as provided in section 16-243, the selectmen of any town, the
142 common council of any city and the warden and burgesses of any
143 borough shall, subject to the provisions of section 16-234, within their
144 respective jurisdictions, have full direction and control over the
145 placing, erection and maintenance of any such wires, conductors,
146 fixtures, structures or apparatus, including the relocation or removal of
147 the same and the power of designating the kind, quality and finish

148 thereof, but no authority granted to any city or borough or a town
 149 planning, zoning, inland wetland, historic district, building, gas, water
 150 or electrical board, commission or committee created under authority
 151 of the general statutes or by virtue of any special act, shall be
 152 construed to apply to so much of the operations, plant, building,
 153 structures or equipment of any public service company or certified
 154 telecommunications service provider that [as] is under the jurisdiction
 155 of the Department of Public Utility Control, or the Connecticut Siting
 156 Council, but zoning commissions and inland wetland agencies may,
 157 within their respective municipalities, regulate and restrict the
 158 proposed location of any steam plant, gas plant, gas tank or holder,
 159 water tank, electric substation, antenna, tower or earth station receiver
 160 of any public service company or certified telecommunications service
 161 provider not subject to the jurisdiction of the Connecticut Siting
 162 Council. Any local body mentioned in this section and the appellate
 163 body, if any, may make all orders necessary to the exercise of such
 164 power, direction or control, which orders shall be made within thirty
 165 days of any application and shall be in writing and recorded in the
 166 records of their respective communities, and written notice of any
 167 order shall be given to each party affected thereby. Each such order
 168 shall be subject to the right of appeal within thirty days from the
 169 giving of such notice by any party aggrieved to the Department of
 170 Public Utility Control, which, after rehearing, upon notice to all parties
 171 in interest, shall as speedily as possible determine the matter in
 172 question and shall have jurisdiction to affirm or modify or revoke such
 173 orders or make any orders in substitution thereof.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>
Sec. 8	<i>October 1, 2002</i>

ET	<i>Joint Favorable Subst. C/R</i>	JUD
JUD	<i>Joint Favorable</i>	

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
CC&PUCF - Cost	Public Utility Control, Dept.	-	Minimal	Minimal
TF - Cost	Transportation, Dept.	-	Minimal	Minimal

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund; TF=Transportation Fund

Municipal Impact: None

Explanation

The bill could result in costs for the Department of Public Utility Control (DPUC) for holding hearings concerning telecommunications providers and cable TV companies attempting to relocate wires or other infrastructure and getting permission from the DPUC to trim trees without property owners consent.

The cost of a public hearing is approximately \$500 including the expenses of a court reporter. The number of hearings the DPUC will hold cannot be determined at this time but are not anticipated to be numerous.

This bill also results in a minimal cost to the Department of Transportation. The department would process these permit requests like those that it currently receives, and it would require that an inspector monitor the site on an occasional basis. A minimal number of additional permits and projects are anticipated.

The addition of certified telecommunication providers to CGS 16-230 that requires the providers to file a bond will not have any fiscal impact to the Secretary of State.

OLR Bill Analysis

sSB 491

AN ACT CONCERNING MINOR REVISIONS TO UTILITY STATUTES**SUMMARY:**

This bill extends several laws regarding utility infrastructure to companies regulated by the Department of Public Utility Control (DPUC) but not treated as utilities. Most of the bill's provisions affect DPUC-certified telecommunications providers, such as long-distance carriers. The bill also limits the ability of local agencies to regulate certain types of infrastructure owned by providers.

In addition, the bill extends to these companies and electric suppliers the requirement that they notify DPUC within 10 days of (1) being organized, (2) acquiring plant, (3) beginning operation, (4) merging with another company, (5) discontinuing business, or (6) changing their corporate name. It subjects the secretary of a telecommunication provider or electric supplier that violates these requirements to a fine of up to \$200, imprisonment for up to 60 days, or both.

The bill bars telecommunications providers and cable TV companies exercising any powers that they may have to change the location of their wires or other infrastructure near highway or public property without the consent the adjoining property owners. If they are unable to obtain this consent, they must obtain DPUC's consent following a public hearing. The bill bars providers and cable TV companies from trimming any tree on or over public ground or a highway without the consent of the property owner, or, if this is unavailable, the consent of DPUC or the tree warden. In both cases, the property owners must be notified, and the agency must hold a hearing before the action can take place.

EFFECTIVE DATE: October 1, 2002

EXTENSION OF LAWS TO CERTIFIED TELECOMMUNICATIONS PROVIDERS

The bill extends to providers provisions that:

1. allow any individual or municipality to bring a complaint to DPUC about a utility's plant or equipment that the complainant believes poses a threat to employee safety or health or to public safety;
2. require a provider whose property has been involved in an accident that resulted in injury or property damage to notify DPUC as soon as possible and submit a summary of minor accidents once per month, with violators subject to a fine of up to \$500 per offense;
3. require DPUC to investigate all fatal accidents and other accidents it considers appropriate, file a report within three months and, mail the company a copy;
4. allow an authority having jurisdiction over a highway (e.g., the Department of Transportation) to require a provider to obtain a permit from it in order to excavate the highway for any purpose other than replacing a pole or a curb box; and
5. require a provider that is capitalized at \$500,000 or less to provide the secretary of the state with a bond, in an amount the secretary sets, to cover the costs of any damages resulting from negligence from such excavations. (This provision does not apply to larger companies and the secretary may waive the bond for smaller companies.)

LOCAL REGULATION OF INFRASTRUCTURE

The bill limits the ability of municipalities to regulate the siting and maintenance of infrastructure owned by telecommunications providers. It removes from the jurisdiction of local planning, historic district, and certain other bodies that part of a provider's facilities and operations that is subject to the jurisdiction of the DPUC or the Connecticut Siting Council. (By law, the Siting Council generally has exclusive jurisdiction over the facilities it regulates.) The bill subjects decisions of inland wetland agencies and zoning commissions regulating facilities, such as antennas, that are owned by providers and are not subject to the Siting Council's jurisdiction to appeal to DPUC. DPUC can affirm, modify, or revoke the decision or issue a substitute decision. These provisions already apply to utility-owned infrastructure.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute Change of Reference
Yea 15 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 40 Nay 0